United Nations S/AC.49/2016/53

Security Council

Distr.: General
17 August 2016

Original: English

Security Council Committee established pursuant to resolution 1718 (2006)

Note verbale dated 16 August 2016 from the Permanent Mission of Germany to the United Nations addressed to the Chair of the Committee

The Permanent Mission of the Federal Republic of Germany to the United Nations presents its compliments to the Chair of the Security Council Committee established pursuant to resolution 1718 (2006) and has the honour to transmit herewith the report on the implementation by Germany of Security Council resolution 2270 (2016), in accordance with the provisions of paragraph 40 thereof (see annex).

16-14276 (E) 020916

Please recycle

Annex to the note verbale dated 16 August 2016 from the Permanent Mission of Germany to the United Nations addressed to the Chair of the Committee

Report of Germany on the implementation of resolution 1718 (2006), in accordance with paragraph 40 of Security Council resolution 2270 (2016)

Germany and the other States members of the European Union have jointly implemented the restrictive measures against the Democratic People's Republic of Korea imposed by Security Council resolution 2270 (2016) by taking the following common measures:[1]

- Council Decision (CFSP) 2016/319 of 4 March 2016, implementing the designation of additional persons and entities (travel ban and asset freeze).
- Commission Implementing Regulation (EU) 2016/315 of 4 March 2016, amending Council Regulation (EC) No. 329/2007 concerning restrictive measures against the Democratic People's Republic of Korea.
- Council Decision (CFSP) 2016/476 of 31 March 2016.

  The Council Decision sets out the European Union's commitment to implementation of all the measures contained in Security Council resolution 2270 (2016), and provides the basis for European Union specific accompanying measures within the scope of the resolution, notably:

  - Designation of additional persons and entities (travel ban and asset freeze);
  - Extension of export and import prohibitions: extends export and import prohibitions to any item (except food or medicine) that could contribute to the development of the Democratic People's Republic of Korea operational capabilities of its armed forces;
  - Requirement to expel diplomats of the Democratic People's Republic of Korea engaged in illicit activities: targets diplomats of the Democratic People's Republic of Korea working on behalf or at the direction of a designated individual or entity, or of an individual or entity assisting in the evasion of sanctions or violating the provisions of Security Council resolutions, including exemptions;
  - Requirement to expel foreign nationals involved in illicit activities: targets foreign nationals working on behalf or at the direction of a designated individual or entity, or of an individual or entities assisting in the evasion of sanctions or violating the provisions of Security Council resolutions;
  - Requirement to close offices of designated entities and expel representatives: Member States shall close the representative offices of designated entities and prohibit such entities, as well as individuals or

[1] All common measures are published in the *Official Journal of the European Union*, which can be consulted through the following web pages: http://eur-lex.europa.eu/JOIndex.do?ihmlang=en (published issues) and http://eur-lex.europa.eu/advanced-search-form.html?qid=1456325860845&action=update (search form).

entities acting for or on their behalf, from participating in joint ventures or any other business arrangements;

- Ban on specialized training, including teaching or training in specific fields;
- Requirement to inspect cargo of the Democratic People's Republic of Korea to cover the inspection of cargo within or transiting free trade zones or that is being transported on Democratic People's Republic of Korea flagged aircraft or maritime vessels. In addition, the obligation to inspect is irrespective of any reasonable grounds to suspect that the cargo contains prohibited items;
- Requirement to ban Democratic People's Republic of Korea chartering of vessels or aircraft and deregister vessels, including a prohibition to provide crew services;
- Requirement to prohibit nationals from operating Democratic People's Republic of Korea vessels/Democratic People's Republic of Korea flag;
- Ban flights of any plane suspected of carrying contraband with the exception of landing for inspection;
- Prohibition of entry into ports of any vessel controlled by a designated entity or suspected of being engaged in illicit activity;
- Export ban on any item that could contribute to the Democratic People's Republic of Korea nuclear or ballistic programmes or other weapons of mass destruction programmes;
- Ban on export from the Democratic People's Republic of Korea of specified minerals like coal, iron, iron ore, gold, titanium ore, vanadium ore and rare earth minerals;
- Ban on aviation fuel exports to the Democratic People's Republic of Korea like aviation gasoline, naphtha-type jet fuel, kerosene-type jet fuel and kerosene-type rocket fuel;
- Asset freeze on Government entities or the Workers' Party of Korea associated with illegal programmes or on individuals or entities acting on their behalf;
- Prohibition on the opening and operation of new branches, subsidiaries and representative offices of Democratic People's Republic of Korea banks;
- Obligation to close existing branches, subsidiaries or representative offices of Democratic People's Republic of Korea banks within 90 days;
- Obligation to close existing representative offices, subsidiaries or banking accounts in the Democratic People's Republic of Korea within 90 days;
- Extension of the prohibition to provide financial support for trade with the Democratic People's Republic of Korea: also to cover private financial support for trade if such financial support could contribute to the illicit activities of the Democratic People's Republic of Korea.

• Council Regulation (EU) 2016/682 of 29 April 2016, amending Council Regulation (EC) No. 329/2007 concerning restrictive measures against the

Democratic People's Republic of Korea, gives effect to the measures provided by Council Decision (CFSP) 2016/476 of 31 March 2016.

Germany has the following national legislation in force, requiring an export authorization for the sale, supply, transfer or export of arms and related materiel[2] to third countries and an authorization for the provision of brokering services and other services related to military activities which, together with Council Decision 2016/849/CFSP, provide the basis for enforcement of the arms embargo against the Democratic People's Republic of Korea and the ban on related brokering services: the Federal Foreign Trade and Payments Ordinance prohibits the sale, export and transit of arms and related materiel (specifically section 74, paragraph (1), No. 5). Section 75, paragraph (1), No. 5, thereof prohibits trafficking and brokering transactions relating to arms and related materiel, which are directly or indirectly destined for persons, organizations or institutions in the Democratic People's Republic of Korea. Additionally, Germany has prohibited the import of banned goods from the Democratic People's Republic of Korea into Germany, as well as the transport of banned goods aboard a ship or aircraft entitled to fly the German flag (section 77, paragraph (1), No. 1, and paragraph (2), of the Federal Foreign Trade and Payments Ordinance). Further, section 78 of that Ordinance requires the issuance of a licence for the export and transit to the Democratic People's Republic of Korea of equipment for the manufacture of banknotes or stamps or of special papers necessary for such manufacture.

The above-mentioned Council Regulations are binding in their entirety and directly applicable in all States members of the European Union.[3] Regulation (EC) No. 329/2007 requires Member States to determine the penalties applicable to infringements of their provisions. The penalties determined by Germany for any infringement of the sectorial trade embargo and the arms embargo against the Democratic People's Republic of Korea as well as the ban on related brokering services are set out in the following legislation: the Federal Foreign Trade and Payments Ordinance, especially section 80, in conjunction with section 17 of the Federal Foreign Trade and Payments Act. Penalties for the infringement of licence requirements for the export and transit of equipment to the Democratic People's Republic of Korea for the manufacture of banknotes or stamps or of special types of paper necessary for such manufacture are set out in section 18, paragraph (2), No. 1, of the Federal Foreign Trade and Payments Act.

As regards restrictions on admission (visa ban), Germany has the following national legislation which, together with Council Decision CFSP 2016/849 and Regulation (EC) No. 539/2001,[3] provide the basis for refusal of admission and denial of requests for a visa: Germany's general aliens legislation, together with Council Decision 2013/183/CFSP and Regulations (EC) No. 539/2001 and (EC) No. 810/2009, which provide the basis for refusal of admission and denial of requests for a visa. The Regulation requires nationals of the Democratic People's Republic of Korea to be in possession of a visa when entering the European Union. The travel restrictions are implemented through the visa application process.

---

[2] This legislation should apply to all goods included in the Common Military List of the European Union, *Official Journal of the European Union*, C 129, 21.4.2015, p. 1.

[3] Regulation (EC) No. 539/2001 applies neither to Ireland nor to the United Kingdom of Great Britain and Northern Ireland.